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FILED
BOARD OF PHYSICAL THERAPY

FEB 28 2012

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STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF PHYSICAL THERAPY EXAMINERS

IN THE MATTER OF

Administrative Action

Martin Ciner, P.T.
License No. 40QA0063800

CONSENT ORDER

TO PRACTICE PHYSICAL THERAPY :
AND DRUG COUNSELING :
IN THE STATE OF NEW JERSEY :

This matter was opened to the New Jersey State Board of Physical Therapy Examiners ("Board") upon receipt of allegations that Martin Ciner ("respondent"), a licensed physical therapist providing physical therapy services at Delaware Valley Physical Therapy and Chiropractic Center, located in Pennsauken, New Jersey, submitted claims to New Jersey Manufacturers Insurance Company for services performed by an individual not licensed as a physical therapist.

Respondent appeared before a Committee of the Board with his attorney Allison J. Whitehead, Esq., on October 11, 2011 for an investigative inquiry. Respondent submitted documentation that

from 2004 through 2008 he was an owner of Delaware Valley Physical Therapy and Chiropractic Center. Respondent testified that between 2006 and 2008 he treated patients L.C., A.J., R.F. and K.F., all of whom were involved in motor vehicle accidents, at Delaware Valley Physical Therapy and Chiropractic Center. Initially these patients were treated by Dr. Lawrence Newton, D.C. and then referred to respondent for physical therapy. Respondent stated that generally he provided the physical therapy services for these patients but when he was busy, Dr. Newton, D.C., provided modalities for these patients. Respondent admitted that for four patients records reviewed, the charts and insurance claims failed to include his name and license number and that he failed to sign the patient notes. Respondent acknowledged that his record keeping skills were deficient and that he has recently taken steps to improve his record keeping skills.

Respondent testified that the computer program at Delaware Valley Physical Therapy for patient records was a shared word processing program which contained only one patient record for each patient. Respondent and Dr. Newton, D.C. shared the same patient record and the program was not capable of accepting an electronic signature and was not write-protected. Respondent admitted that he did not sign or maintain contemporaneous patient records for patients L.C., R.F., A.J. and K.F. and failed to include the following required information in the patient records:

- the name and license number of the licensee who provided the physical therapy services;

- a plan of care establishing measurable goals of the intervention with stated time frames, the type of intervention, and the frequency and expected duration of intervention;
- treatment plans and progress reports;
- discharge summary which includes the reason for discharge from and outcome of the physical therapy intervention relative to established goal at the time of discharge;
- documentation of communication with patients' other treating physicians.

Respondent also admitted that he does not wear a name tag using the term "physical therapist."

Subsequent to the inquiry respondent submitted a letter dated November 8, 2011, stating that he had completed the Defensible Documentation course administered by the American Physical Therapy Association and further advised that he had engaged the services of Mailly & Inglett Consulting ("M&I") to assist him in improving patient records consistent with Board's regulations. In addition, pursuant to a Board request, respondent submitted four patient records for patients involved in motor vehicle accidents who began treatment in August 2011.

Having reviewed the entire record, including the testimony of the respondent and the patient records, it appears to the Board that respondent violated the patient record regulation, N.J.A.C. 13:39A-3.1 (a) and (c) on repeated occasions by failing to maintain appropriate patient records, failing to prepare and sign contemporaneous patient records, failing to include a plan of care, failing to document in the records the name and license number of the licensee who rendered care, failing to include type or

frequency of the therapeutic procedures provided, failing to document patient response to intervention and current status, failing to include progress notes with stated goals, failing to document change of care based on patient progress, failing to document communication with other health care professionals pertaining to the patient's care, and failing to document discharge summaries. Further, respondent has violated the patient record regulation, N.J.A.C. 13:39A-3.2 by using a computer program for preparation of patient records that was not a secure write-protected program and was not capable of accepting an electronic signature. Respondent has also violated N.J.A.C. 13:39A-3.9 by failing to conspicuously wear a name tag using the term "physical therapist" whenever acting in that capacity. These facts establish a basis for disciplinary action pursuant to N.J.S.A. 45:1-21(e) and (h) in that respondent engaged in professional misconduct and violated the provisions of Board's regulations.

The respondent being desirous of resolving this matter without resort to formal proceedings, and the Board having determined that the following provisions are sufficiently protective of the public safety, health and welfare, and for good cause shown;

IT IS on this 28th day of February, 2012

HEREBY ORDERED AND AGREED that:

1. Respondent is reprimanded for violating N.J.A.C. 13:39A-3.1, 3.2, 3.9 and engaging in conduct in violation of N.J.S.A. 45:1-21(e) and (h) as described above.

2. Respondent shall cease and desist from the above-described violations of N.J.A.C. 13:39A-3.1 and 3.2 and from engaging in conduct in violation of N.J.S.A. 45:1-21(e) and (h).

3. Respondent shall conspicuously wear a name tag using the term "physical therapist" whenever acting in that capacity. The letters on the tag shall be at least one-quarter inch in size, in compliance with N.J.A.C. 13:39A-3.9.

4. Respondent shall pay civil penalties in the amount of ten thousand dollars (\$10,000.00). Providing that respondent complies with all of the terms of the within Consent Order, two thousand dollars (\$2,000.00) of the civil penalty shall be stayed and shall be deemed satisfied upon documentation of one year of compliance with the within Consent Order. Eight thousand dollars (\$8,000.00) of the civil penalty shall be submitted by certified check or money order payable to the State of New Jersey, and mailed to Lisa Affinito, Executive Director, Board of Physical Therapy Examiners, P.O. Box 45014, Newark, New Jersey 07101, contemporaneously with the signing of this order.

5. Respondent shall pay investigative costs in the amount of \$1,150.00 contemporaneously with the signing of this Order. Payment shall be made by certified check or money order

payable to the State of New Jersey, and submitted to Lisa Affinito, Executive Director, Board of Physical Therapy Examiners, P.O. Box 45014, Newark, New Jersey 07101.

6. Failure to remit payment as required by this Order will result in the filing of a Certificate of Debt and such other proceedings as are permitted by law.

7. Respondent shall submit documentation that he fully attended and successfully completed the APTA (American Physical Therapy Association) Defensible Documentation course contemporaneously with the signing of the within Consent Order.

8. Respondent shall immediately implement and utilize a write-protected computer program for patient records, in compliance with all of the requirements of N.J.A.C. 13:39A-3.2.

9. Respondent shall submit to the monitoring of patient records by a monitor pre-approved by the Board for a minimum of one year and until further order by the Board. The monitor shall sign a copy of this Consent Order and acknowledge reading it and agreeing to the requirements for the monitor. Respondent and the monitor shall immediately (within 24 hours) notify the board in writing of any change in the monitoring agreement.

10. The monitor shall submit quarterly reports directly to the Board including the following information:

- a. That the monitor has reviewed the records at a minimum of every other week and state the specific date and time (beginning and ending time) of all meetings between the licensee and the monitor

- b. Full names of the patient records reviewed at each meeting
- c. Full names of all patients the licensee treated including the dates and locations of the treatments provided
- d. Documentation of the specific areas needing improvement as identified in the Consent Order and the specific progress made for each area of deficiency
- e. Identification of the tool(s) used to provide education regarding documentation
- f. A list of any deficiencies in the patient records, or of respondent's practice, recommended remediation actions and a statement regarding respondent's compliance with the monitor's recommendations.

The first report shall be submitted to the Board no later than April 1, 2012 and shall state whether respondent implemented and is utilizing a write-protected computer program for patient records, and whether the computer program is in compliance with all of the requirements of N.J.A.C. 13:39A-3.2.

11. At the conclusion of a minimum of one year of compliance with the within Consent Order, respondent may apply for an Order granting him permission to practice without a monitor. In that event, respondent shall appear before the Board, if so requested by the Board, at which time the burden shall be upon the respondent to demonstrate to the Board's satisfaction that he has complied with all of the terms of the within Consent Order and that his practice is in compliance with all regulations for licensed physical therapists.

12. Upon receipt of reliable information that respondent has deviated from the terms of this Consent Order without prior

written consent of the Board, the stayed portion of the civil penalty shall become immediately due, in the sole discretion of the Board. Upon notice of such Board determination, respondent may petition the Board on five (5) days notice and request a hearing limited to the sole issue of whether he has deviated from the terms of the Consent Order.

13. Respondent shall comply with all statutes and regulations, as well as professional standards of conduct and obligations imposed by law on licensed physical therapists.

14. Any deviation from the terms of this Consent Order without prior written consent of the Board shall be grounds for disciplinary action as the Board may determine.

NEW JERSEY STATE BOARD OF PHYSICAL
THERAPY EXAMINERS

By: Karen E. Wilk, DPT 400005260100
Karen Wilk, P.T., DPT
Chair

I have read and understand the within
Consent Order and agree to be bound by
its terms. Consent is hereby given to
the Board to enter this Order.

Martin Ciner
Martin Ciner, P.T. Date

This Order is agreed to as to form and entry.

Allison J. Whitehead 2-9-12
Allison J. Whitehead, Esq. Date
Attorney for Martin Ciner, P.T.